

Excerpts

Unapproved Planning Commission Minutes

December 11, 2002

Application No. UP-611-02, Deanna L. and Dwight S. Newingham: Request for a Special Use Permit, pursuant to Section 24.1-306 (Category 3, No. 2) of the York County Zoning Ordinance, to authorize the establishment of a real estate office as a home occupation within an existing single-family detached home located at 218 Ryans Way. The proposed use would have on-premises customer/client contact and one non-resident employee. The 2.07-acre parcel is located on the east side of Ryans Way, approximately 900 feet west of its intersection with Tide Mill Road (Route 600) and is further identified as Assessor's Parcel No. 30-77-1. The property is zoned RR (Rural Residential) and is designated for Low Density Residential development in the Comprehensive Plan.

Ms. Maggie Hedberg presented a summary of the staff memorandum to the Commission dated December 4, 2002, in which the staff recommended approval. She added that the present address sign is unacceptable and recommended that the Commission consider adding a condition requiring a more visible address sign on Ryans Way. Ms. Hedberg confirmed that no additional signage would be permitted.

Mr. Simasek asked if development of a 12-parcel subdivision adjacent to the subject property is planned, and Ms. Hedberg confirmed that development of a small subdivision development is expected to commence within a year. Mr. Simasek thought the number of visits to the proposed home office during the marketing of the subdivision could exceed three per week during the development of the subdivision. Ms. Hedberg pointed out that the estimate of two to three office visits per week was provided by the applicants.

Mr. Ptasznik expressed concern that the total square footage may exceed what is allowed. Ms. Hedberg said the area on which the recommendation is based includes the stairwell but not the garage.

The Chair opened the public hearing.

Ms. Deanna Newingham, 218 Ryans Way, explained her brother, who lives next door, would be the only non-resident employee. The bookkeeper works from her residence and mail is delivered to a post office box. She does not expect more than the requested number of client visits because most of the business is conducted at other locations – properties being shown or the clients' homes or places of business, and on occasion at Mr. Newingham's office in Newport News. She explained that only three of the 12 lots being developed as an adjacent subdivision remain to be sold and she did not expect any impact on the neighborhood related to selling the three properties. Ms. Newingham thanked Ms. Hedberg for her professional expertise.

Mr. Hendricks asked the applicant about proposed improvements to Ryans Way. Ms. Newingham said the Virginia Department of Transportation indicates it plans to add curb and gutter on Ryans Way and a cul-de-sac just short of her property.

Mr. Heavner asked how many licensed agents would work from the home, and Ms. Newingham replied there would be two – herself and her brother.

Chair Hendricks closed the public hearing.

Mr. Simasek said he had no objections but added that because the neighborhood is changing, he recommended County review of the use permit in two years rather than the five years recommended by staff.

Ms. White agreed with a two-year review.

In response to Mr. Ptaszniak's concerns about traffic handling capabilities of Ryans Way during the development of nearby parcels, the staff noted that the undeveloped parcels on either side of Ryans Way are a part of the Lotz family subdivision; Ms. Hedberg exhibited the approved development plan for those parcels. Mr. Carter explained the present traffic pattern and planned realignment of Ryans Way that would increase traffic handling capabilities for the neighborhood. He added that the requested allowance of two or three client visits per day should have no impact on the neighborhood; in fact, he added, three or four clients a day would generate less activity than some of the other approved use permits for home occupations.

Ms. White thought an unrestricted real estate operation would have a negative effect on the subdivision.

Mr. Dwight Newingham, 218 Ryans Way, requested and was granted permission to respond to the members' concerns. Mr. Newingham pointed out that the proposed home occupation is not developing the adjacent subdivision and should not increase client visits to the office. He offered to do whatever the County required to identify private property on Ryans Way in an effort to prevent parking or turnarounds on his or his neighbors' properties during construction of the subdivision. He added that the business to be occupied from the home is not a growth business.

Mr. Heavner questioned how the number of agents operating from the address as a home occupation could be limited to two, particularly in the event the applicants were to sell the property and another real estate business took occupancy. Mr. James Barnett noted that was an unlikely scenario because for more than two agents to operate without residency would be a clear violation of the use permit.

Mr. Simasek reiterated his recommendation for a two-year review which should satisfy any concerns over that type of violation.

Mr. Ptaszniak moved adoption of Resolution PC02-44(R), revised to require review after two years and to add a condition requiring a more visible address sign on Ryans Way.

PC02-44(R)

On motion of Mr. Ptasznik, which carried 4:1 (Mr. Barba absent, Ms. White dissenting), the following resolution was adopted:

A RESOLUTION TO RECOMMEND APPROVAL OF AN APPLICATION FOR
A SPECIAL USE PERMIT TO AUTHORIZE A REAL ESTATE OFFICE AS A
HOME OCCUPATION WITHIN AN EXISTING SINGLE-FAMILY DETACHED
RESIDENCE LOCATED AT 218 RYANS WAY.

WHEREAS, Deanna and Dwight Newingham have submitted Application No. UP-611-03, pursuant to Section 24.1-306 (Category 3, No. 2) of the York County Zoning Ordinance, to authorize a real estate office as a home occupation within a single-family detached dwelling located at 218 Ryans Way and further identified as Assessor's Parcel No. 30-77-1; and

WHEREAS, said application has been referred to the York County Planning Commission; and

WHEREAS, the Planning Commission has conducted a duly advertised public hearing on this application in accordance with applicable procedure; and

WHEREAS, the Commission has given careful consideration to the public comments and staff recommendation with respect to this application;

NOW, THEREFORE, BE IT RESOLVED by the York County Planning Commission this the 11th day of December, 2002, that Application No. UP-611-03 be, and it is hereby, transmitted to the York County Board of Supervisors with a recommendation of approval of a Special Use Permit to authorize a real estate office as a home occupation at 218 Ryans Way, subject to the following conditions:

1. This use permit shall authorize the establishment of a real estate office as a home occupation in an existing single-family detached structure located at 218 Ryans Way and further identified as Assessor's Parcel No. 30-77-1.
2. This use permit shall authorize the employment of no more than one (1) non-resident.
3. The real estate office shall not exceed 500 square feet in area.
4. The hours of operation for the real estate office shall be from 9:00 a.m. to 5:00 p.m., Monday through Friday.
5. In accordance with Section 24.1-115(b)(7) of the York County Zoning Ordinance, a certified copy of the resolution authorizing this special use permit shall be recorded at the expense of the applicant in the name of the property owner as grantor in the office of the

Clerk of the Circuit Court.

6. This home occupation shall be developed and operated in accordance with the standards set forth in Section 24.1-281, General requirements for home occupations, and Section 24.1-283, Home occupations permitted by special use permit, of the York County Zoning Ordinance.
7. The applicant is permitted to have one (1) non-resident employee for a period of two (2) years from the date of issuance. Nothing shall be construed to prevent the operator of the home occupation from renewing the permit to reflect the continued service of one (1) non-resident employee.
8. Street address numbers, not less than three inches (3") in height and of a durable and clearly visible material, shall be placed conspicuously on the existing wooden pole at the end of the applicant's driveway and shall contain numbers of a contrasting color to the background on which they are mounted.
